

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/729,184

Applicant(s)

LEFEVRE ET AL.

Examiner

MARIANNE L. PADGETT

Art Unit

1792

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: PTO-892.

/Marianne L. Padgett/
Primary Examiner, Art Unit 1792

Continuation of 11, does NOT place the application in condition for allowance because:

Applicants have presented arguments only, which are not convincing, since for instance as with respect to Arnold et al. (940), the overall process of figures 13-18 discussed by applicants on page 4 of their response, are for an injection molding process & it is irrelevant that figures 13-16 discussed the reference's option up predecorating & metallizing at the start of the injection molding process, since as previously pointed out in the rejection Arnold et al. provide reasons why the decorating & metallization may be more desirably performed after the shaping, which one of ordinary skill in the art would have expected to include taught injection molding, since it is an exemplified means of shaping substrates. It is not necessary for a reference to explicitly put all the pieces of their teachings in the same example in order for them to be combined, especially when the reference itself provides reasons for doing alternative processing of steps or orders of steps. Applicants' assertion that every limitation in the claim must be "found either expressly or inherently in the prior art to properly make out a prima facie case of obviousness" is entirely incorrect, since this is what is necessary for anticipation (a 102 rejection), not obviousness (103).

Applicant's discussion on page 7 provides the examiner with absolutely no useful reasons why a choice of symmetrical elliptical molded shapes of headlights would have been unknown or obvious to one of ordinary skill, or why a competent practitioner would not find it obvious to appropriately patterned such symmetrical headlight reflector substrates, so as to be functional as a pair of reflectors, dependent on the specific motor vehicle's design. In a footnote on page 7 of their response, applicants have requested evidence of prior art knowledge & standard design choices, thus since such design choices have been known since the early days of car manufacture, the examiner has provided applicants with requested documentation illustrating Model T headlights, where both right and left headlight have identical shape & employ symmetrical reflectors, thus clearly showing that the examiner was correct in asserting that identical left & right side headlight reflectors were known design choices, i.e. lacking in patentable significance. As the examiner recalls from history classes, interchangeable parts for assembly line efficiency was a concept vigorously employed in producing Ford's cars, such as the model T, thus is old and well-known for use in car manufacture and parts thereof.

With respect to Fischer et al., it appears that on page 8-9, that applicants are asserting that while this reference suggests employing injection molding (column 9, lines 29-36), since they do not provide a specific example of how to do so &/or a specific example applied particularly to headlamp structures that teaches how to injection mold, that the reference is fatally defective, however the examiner does not agree, because if this causes Fischer et al. to be fatally defective, the examiner would have to conclude that applicants own specification is fatally defective, since it does not give specific directions on how to perform injection molding either, but like Fischer et al. merely says to do so. Again applicant's arguments provide no convincing reason to consider using identical molded components for both left & right side headlamp reflectors to be unobvious & have patentable significance.

Applicant's arguments with respect to Shaffer et al. appear to be asserting that Shaffer does not correct deficiencies that applicants perceived in the primary references, however since applicants arguments with respect to the primary references were ineffective, these further arguments are not convincing.

With respect to the ternary references Reiss et al. and Lamprecht et al, as applicants should be aware, for a teaching or concept of a reference to be relevant, it need not be applied to the identical substrate or for an identical purpose, as long as one of ordinary skill in the art would reasonably find the concept or teaching applicable/relevant to techniques or processes of the reference with which it is combined. Applicant's lengthy discussion does not provide reasoning that shows inappropriateness of the applied combination, but appears to rely on insisting that only processes explicitly used in manufacturing of motor vehicle headlamp reflectors could ever be considered by one of ordinary skill in the art, however a competent practitioner in the art, is not so limited and narrowminded but would have been expected to be able to apply general scientific concepts in different situations or on different substrates when there are analogous properties &/or substances involved.

For these reasons, applicants' claims, which are directed to well-known coating & patterning processes employing a laser & conventional molding practices, applied to generic motor vehicle headlamps' reflectors or masks, remain considered obvious with respect to the prior art, as set forth in the final rejection.

/MLP/
12/3/2008